

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

KRYSTLE LOOMIS,	:	CIVIL ACTION NO. 3:20-CV-1610
	:	
Plaintiff	:	(Judge Conner)
	:	
v.	:	
	:	
MONTROSE BOROUGH POLICE	:	
DEPARTMENT, JOSHUA DIDDICK,	:	
and DOLLAR GENERAL,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 8th day of July, 2021, upon consideration of the motion (Doc. 2) to dismiss by defendants Montrose Borough Police Department and Joshua Diddick, and the parties' respective briefs in support of and opposition to said motion, and for the reasons set forth in the accompanying memorandum, it is hereby ORDERED that:

1. The motion (Doc. 2) is GRANTED in part and DENIED in part, as follows:
 - a. The motion (Doc. 2) is GRANTED with prejudice (1) with respect to plaintiff's request for damages under the Pennsylvania Constitution, (2) to the extent Count I asserts an official-capacity claim against Diddick, and (3) to the extent plaintiff seeks punitive damages from the Borough or Diddick in his official capacity.
 - b. The motion (Doc. 2) is GRANTED without prejudice with respect to Count II.
 - c. The motion (Doc. 2) is otherwise denied.
2. Plaintiff is granted leave to file an amended complaint within 21 days of the date of this order. In the absence of a timely filed amended

complaint, the above-captioned action shall proceed consistent with the accompanying memorandum.

3. Defendants' deadline to respond to the amended complaint under Federal Rule of Civil Procedure 12(a)(4)(A) is DEFERRED for the duration of the 21-day amendment period set forth in paragraph 2 above.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner
United States District Judge
Middle District of Pennsylvania